

### **REMARKS**

This is a full and timely response to the outstanding Final Office Action mailed June 2, 2008. Upon entry of the amendments in this response, claims 1-20 are pending. In particular, Applicant reinstates claims 7 and 16 and amends claims 1, 8-10, and 17-19. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

#### **I. Rejections Under 35 U.S.C. §103**

The Office Action indicates that claims 1-2, 5-6, 8-11, 14-15, and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication Number 2005/0131748 ("*Parker*") in view of U.S. Publication Number 2002/0159439 ("*Marsh*") or U.S. Publication Number 2001/0038689 ("*Liljestrand*"). Also, the Office Action indicates that claims 4 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Parker* in view of *Marsh* or *Liljestrand* as applied to claim 1 above and further in view of U.S. Patent No. 6,996,076 ("*Forbes*"). Additionally, the Office Action indicates that claims 3 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Parker* in view of *Marsh* or *Liljestrand* as applied to claim 1 above and further in view of U.S. Patent No. 5,991,390 ("*Booton*"). Applicant respectfully traverses these rejections for at least the following reason.

#### **Relevant Law**

35 U.S.C. § 103(c) provides:

Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not

preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Analysis

MPEP 706.02(I)(2) provides in pertinent part:

Applications and references (whether patents, patent applications, patent application publications, etc.) will be considered by the examiner to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

Applicant respectfully submits that *Parker* and the present application were commonly-owned or under an obligation to be assigned to the same entity. Applicant respectfully submits that, based on the existence of recorded assignment documents, it is Applicant's understanding that the present application and the *Parker* reference were commonly owned by BellSouth Intellectual Property Corp. at the time the invention was made. Therefore, Applicant respectfully submits that common ownership between the present application and the *Parker* reference at the time the invention was made has been established under 35 U.S.C. § 103(c).

Applicant respectfully submits that the *Parker* reference is, therefore, disqualified as prior art under 35 U.S.C. § 103(c) because the *Parker* reference qualifies as prior art only under one or more sections (e), (f) and (g) of Section 102, and the present

application, and the *Parker* reference were commonly owned or under an obligation of assignment to the same person at the time the invention was made.

### Conclusion

Applicant respectfully submits that since all of the obviousness rejections are premised on the *Parker* reference and the *Parker* reference is disqualified as prior art under 35 U.S.C. § 103(c), the obviousness rejections are improper and should be withdrawn.

## **II. Reinstatement of Claims 7 and 16 and Amendments to Claims 1, 8-10, and 17-19**

Applicant previously amended claims 1, 8-10 and 17-19 and canceled claims 7 and 16 unnecessarily to overcome the *Parker* reference, which is actually commonly-owned as discussed above. Therefore, Applicant has reinstated claims 7 and 16 and amended claims 1, 8-10 and 17-19 to return these claims to the state prior to the amendments and cancellations made to overcome the *Parker* reference. Consequently, any disclaimers of claim scope are hereby rescinded, and Applicants no longer intend the claims to be limited by amendments and cancellations made to overcome the commonly-owned *Parker* reference.

### CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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